

APPEAL NO. 020242
FILED MARCH 20, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 7, 2002. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) had disability from March 12, 2001, through the date of the CCH. The appellant (carrier) appealed and the claimant responded.

DECISION

The hearing officer's decision is affirmed.

Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant claimed he had disability as a result of his compensable injury of _____, beginning March 12, 2001, and continuing through the date of the CCH. The claimant had the burden to prove that he had disability as defined by Section 401.011(16). Whether the claimant had disability for the period claimed presented a fact question for the hearing officer to resolve from the evidence presented. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The claimant's testimony and the reports of the treating doctor support the hearing officer's determination that the claimant had disability from March 12, 2001, through the date of the CCH. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer did not err in determining that the Texas Workers' Compensation Commission has jurisdiction to hear the case. The period of disability found by the hearing officer was for a period subsequent to the date of the prior CCH. The carrier's arguments regarding jurisdiction in a similar case were considered and rejected in Texas Workers' Compensation Commission Appeal No. 010734, decided May 17, 2001, for the reasons stated in that decision. See *also* Texas Workers' Compensation Commission Appeal No. 001848, decided September 14, 2000; and Texas Workers' Compensation Commission Appeal No. 000032, decided February 18, 2000.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **GREAT AMERICAN ALLIANCE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge